

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING / GENERAL MEETING
JUNE 28, 2016**

Place: Room 206

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Cameron, Cunningham, Olvany, Sini, Jr., Voigt

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat
Channel 79

Chairman Cameron opened the meeting at 8 P.M. and read the first agenda item:

PUBLIC HEARING

Continuation of Public Hearing regarding Coastal Site Plan Review #310, Flood Damage Prevention Application #355, Land Filling & Regrading Application #384, Susan Weaver, 21 Baywater Drive. Proposal to remove the existing residence, and construct a replacement single-family residence, and to perform related site development activities within regulated areas. The subject property is located on the south side of Baywater Drive, approximately 720 feet east of its intersection with Nearwater Lane, and is shown on Assessor's Map #55 as Lot #97 in the R-NBD Zone. *PUBLIC HEARING OPENED ON 6/7/2016.*

Mr. Ginsberg explained that the Planning & Zoning Commission had continued the public hearing so that the applicant could obtain a modification of the previous granted varaince from the Zoning Board of Appeals (ZBA). He said that additional reviwie revealed that no additional variances were necessary and the attorney for the applicant said that the plans did not need to be modified or changed. Mr. Ginsberg said that the Department of Energy and Environmental Protection indicated that if certain work took place within the DEEP jurisdiction than a permit would be necessary.

Commission members did not have any questions or comments. Chairman Cameron asked if there were any questions or comments from the public. There were none. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Sini, seconded by Mr. Voigt and unanimously approved.

At about 8:05 P.M., Chairman Cameron read the following agenda item:

Business Site Plan Application #293/Special Permit, John Hertz & Robert Wood, 131 Hollow Tree Ridge Road. Proposal to construct a self-storage facility with associated office, housing, and commuter parking, and to perform related site development activities. The subject property is located on the west side of Hollow Tree Ridge Road, approximately 100 feet south of its intersection with Heights Road, and is shown on Assessor's Map #48 as Lot #3 in the 3.7AH Zone.

Attorney Michael Murray distributed a packet of material to the Commission members. He said that the Commission had previously changed the Regulations within the zone to allow for a self-

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storage facility at this location. The Regulation Change application had been modified and adopted by the Commission. Attorney Murray said that the Site Plan and building design of the self-storage facility have been revised to reflect the modifications that were adopted by the Commission. He said that this is a 3.7 acre site and that the chart of zoning requirements indicates that all of the relevant setback and coverage limitations have been satisfied.

Attorney Murray explained that 14 on-site commuter parking spaces will be located between Hollow Tree Ridge Road and the front building. That front building will contain the offices for the business as well as two apartments for the employees of the business. The self-storage building will be much larger and will be located to the west of the small office/apartment building. On-site customer parking spaces will be striped. No parking will take place along Hollow Tree Ridge Road or the access driveway into the Avalon development. That access driveway is actually part of and within the 3.7 acre parcel. In response to a question, John Hertz said that the parking for the two apartments would be located to the west of the office/apartment building and to the east of the storage building. Doug DiVesta, Professional Engineer, said that the parking for the residential units would be 25-30 feet away from the back entrance to the building.

In response to a question, Mr. Hertz said that the people living in the two apartments will be working on the site. Mr. Hertz said that the apartments will not be rented to the public generally. He said they put that provision in the proposed Regulation so that employees will always be available for security on the site and to deal with the occasional after-hours visitors to the site. Mr. Hertz said that the driveway through the site is approximately 30 feet wide to accommodate the customers' needs and to facilitate easy passage of vehicles when one customer is parked adjacent to a self-storage unit, delivery trucks can enter and exit the site and easily maneuver on the site without backing up traffic onto the access driveway that services the Avalon residential development to the west. Mr. DiVesta said that there will be two curb cuts along the Avalon driveway. Attorney Murray said that 13 on-site parking spaces were required for the self-storage use based on the size of the building. Mr. Hertz said that part of the overhead power line that exists over the property will be buried near the front of the site.

Mr. DiVesta explained that one of the problems to develop this property for affordable housing as it was originally zoned, is the lack of adequate sanitary sewer connection. The proposed office and two apartment units above the office will be serviced by an on-site septic system. He said that the septic system design has been reviewed and approved by the Darien Health Department. The connection to sanitary sewers have been investigated but proved not to be feasible or practical. He said they have obtained a waiver of the Health Code to have the one septic system serve the two buildings. There are no restrooms in the storage building. Attorney Murray said that the Health Department review and approval has been included in the packet submitted to the Commission. He also said that the Environmental Protection Commission (EPC) permit letter is included in the packet.

Mr. DiVesta said there is a small pocket of wetlands on the north side of the site and adjacent to the driveway to the Avalon development. That wetland will be filled and a new wetland will be created in the southwest corner of the site. Details of the excavation and planting plan have been reviewed and approved by the EPC. The bottom of the new drainage basin/wetland area will often stay wet for a few days after rainfall. Eventually it will dry out. Mr. DiVesta said that the drainage analysis submitted to the EPC and P&Z has been reviewed by a consultant hired by the Town. There is no

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off-site water that comes on to the site, so all they need to deal with is the sheet flow from the site itself. The plans have been updated to reflect comments from the Town's consultant. Sheet flow will be directed into a swale along the southerly portion of the site, catch basins along the north side of the development will collect storm water, and roof gutters will be directed into solid pipes on the south. The pipes will direct water to the south and west portions of the storage building. The stormwater detention basin area has been designed to control the storage of all the stormwater from the site so that there is no increase in off-site peak flow. They have not taken credit for any infiltration of water into the ground. Any overflow of water from the drainage system would flow into the Avalon drainage system as any overflow would prior to development. Mr. DiVesta said that the engineering consultants for Avalon have reviewed and approved the drainage system proposal. He said that the drainage system has been designed for 100 year storm even though the Town Regulations only require the design for a 50 year storm. Mr. DiVesta said that the drainage system has been carefully designed to shift the peak of the flow of discharge by approximately two hours so that it is later than the peak discharge of water within the Avalon drainage system.

Mr. DiVesta said that he is not sure how much excavated material will need to be hauled away. It will depend on the quality of materials that they find. He is sure that it is not ledge but since the site was formerly mined, they expect to find a mix of materials on the site.

At about 8:40 P.M., Todd Ritchie, Professional Engineer, explained that he was hired by the Town to conduct a peer review of the drainage system. He said that he has discussed his issues and concerns with the applicant's engineer but has not yet prepared a letter or report for the Commission because he is waiting for the applicant's response and revised plan. He said that the development would increase the peak discharge and therefore they have incorporated a stormwater detention system to properly manage that increase in peak discharge. Mr. DiVesta said that the Avalon drainage system has a sediment basin but it does not have a detention system to hold back or delay the flow of water. The sediment basin at Avalon is for water quality purposes and allows the water to move through the site fairly quickly so that water can be discharged into the lower reaches of the Noroton River. This helps to assure that the peak discharge from the Avalon drainage system will not coincide with peak discharges from the upper portions of the water shed.

Mr. Olvany noted that changes to the drainage plan from January to June resulted in approximately tripling the capacity of the stormwater detention pipes. Mr. DiVesta confirmed that observation and said that it was in response to questions and concerns raised by the Town's consultant. Mr. Ritchie said that they should also add more catch basins to collect the flow of stormwater and snow melt before it refreezes on the large paved areas. Mr. Ritchie said that he has not seen any comments from the Avalon engineers. In response to questions, Mr. DiVesta said that snow will be pushed from the parking area and access driveways to the perimeter of the parking lot. They will need to work around any vehicles that are stored in the designated outside storage area. Ms. Cameron asked about the possibility of installing a safety fence around the stormwater detention basin. The applicants said they would look into that possibility.

Chris LaVigna, Project Architect, reviewed the drawings of the proposed three story self-storage building and the two story office and storage building. Mr. Hertz said that signage to the site will be subtle and will not be directed toward I-95. It will indicate the street address and name of the facility adjacent to Hollow Tree Ridge Road. Once motorists are on the access driveway, initial signage will direct them to the self-storage facility as well as the Avalon residential development.

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Mr. Hertz said that the architectural drawing assumes that you would be able to view the entire north elevation of the building from one location. He said that in reality, you would not be able to see that entire wall unless you are over the railroad tracks. Mr. LaVigna showed views of the proposed building from Hollow Tree Ridge Road and I-95 and the driveway that provides access to Avalon. He said that the external materials of the building would be stucco and that elevator access within the storage building would be provided.

Ms. Cameron said that she was concerned that the traffic figures had not been complete. Attorney Murray said he submitted a traffic report dated 6-24-2016 and a letter of clarification dated 6-28-2016. Commission members said that they will review those additional materials and will discuss them at the next hearing.

Mr. Hertz said that the lighting plan has been submitted. The site will be illuminated with a series of light poles around the perimeter of the property. In addition, pathways will be illuminated using lights mounted on the side walls of the building. The lights will all shine down at the first story of the building only. He said that sensors will be installed to allow many of the lights to be turned off until someone is in the area. Mr. Olvany noted his concern regarding future neon-type signs within the building that could be installed by future owners of the self-storage facility.

Ms. Cameron said that it would be important to get something from the Avalon engineers regarding the drainage, and other information needs to be submitted for Commission review. There were no comments from the public at the public hearing. The Commission members decided that they would continue the public hearing on July 12, 2016 in the Auditorium of the Town Hall.

At about 9:20 P.M., Chairman Cameron read the following agenda item:

Land Filling, Excavation & Regrading Application #382, CL Darien Partners, LLC, 277 Hoyt Street. Proposal to fill and regrade in association with the construction of a new single-family residence and to perform related site development activities. The subject property is located on the east side of Hoyt Street, approximately 60 feet north of the intersection of Hoyt Street and Wakemore Street, and is shown on Assessor's Map #8 as Lot #210 & #211 in the R-1/3 Zone.

Attorney Bruce Hill represented the applicant. Mr. Ginsberg said that the proposed development of this site needs a Special Permit for Land Filling, Excavation and Regrading. He said access will be from Kensett Lane and although it appears that this is a corner lot, there is technically a strip of land that separates the subject property from Wakemore Street.

Attorney Hill said that 277 Hoyt Street and an adjacent, separate building lot to the south were acquired by the Kensett developers after the CT Department of Transportation denied their original Kensett plan for access directly to Hoyt Street. This required the shifting of the access drive to Wakemore Street and the realignment of Wakemore Street as it intersects Hoyt Street. The realignment took place on the lot to the south of 277 Hoyt Street. He said that 277 Hoyt Street was never incorporated into the Kensett development and that it has been a separate building lot for many, many years. Access to the site will be through the Kensett driveway.

Dawn McKenzie, Professional Engineer, said that the stormwater runoff would be collected from the roof and driveway and will be directed into a drainage and detention system that includes the

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installation of Cultec chamber units. She said that the drainage system has been designed for a 50 year design storm. Mr. Ginsberg said that the drainage report had been reviewed by Darren Oustafine of the Darien Public Works Department. Ms. McKenzie said that they had responded to the comments from Mr. Oustafine and will follow up with a written summary of those responses if the Commission so desires. It will not require any change to the plans, just a clarification of how the calculations were performed.

Commission members asked about the engineering plan that notes refueling of earth moving equipment will take place on site rather than returning the equipment to the shop by trailer. Ms. McKenzie noted that it is a standard note which allows the operator to perform the on-site refueling of the equipment subject to certain safety protocols. The Commission members reviewed the regrading plan and noted that access would be through and from the Kensett driveway rather than from Hoyt Street.

There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this application and will render a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

At about 9:35 P.M., Chairman Cameron read the following agenda item:

Land Filling & Regrading Application #385, Michael & Devin Conroy, 20 Wakemore Street.

Proposal to regrade within fifteen feet of a property line in association with the construction of additions and alterations to an existing residence, and to perform related site development activities. The subject property is located on the north side of Wakemore Street, approximately 450 feet east of its intersection with Hoyt Street, and is shown on Assessor's Map #8 as Lot #219 in the R-1/3 Zone.

Mr. Ginsberg explained that the Zoning Board of Appeals (ZBA) had granted necessary setback variances to allow the addition to the rear portion of the building. Part of the proposed redevelopment of the property does involve some regrading that is within 15 feet of the property lines. Thus a permit from the Planning & Zoning Commission is required.

Kent Eppley explained that he is the General Contractor for the applicants and said that he will be constructing the proposed retaining wall adjacent to the property lines and lowering the grade. He said the maximum height of the retaining wall would be about 18 inches. He said that a two Cultec drainage systems will be installed. One will accommodate the drainage from the driveway and the other two units will accommodate the runoff water from the house. Mr. Eppley said this is a single family house and the extent of regrading is relatively minor.

There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Sini, seconded by Mr. Voigt and unanimously approved.

At about 9:40 P.M., Chairman Cameron read the following agenda item:

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Coastal Site Plan Review #311, Flood Damage Prevention Application #356, Dan & Stacie Allen, 77 Five Mile River Road. Proposal to construct additions and alterations to an existing residence; remove the existing pool and construct a new in-ground pool with associated retaining wall; and to perform related site development activities within regulated areas. The subject property is located on the east side of Five Mile River Road, approximately 1,350 feet north of its intersection with Davis Lane, and is shown on Assessor's Map #66 as Lot #17 in the R-1/2 Zone.

Paulo Vicente, Project Architect, explained that this is an Italianate style residence with a pool located to the rear of the house. The pool is located between the house and the Five Mile River. The proposed addition is to the south side and rear of the house. This will require the removal of the existing swimming pool. A new swimming pool is proposed closer to the River. He said that approximately 14 square feet of the existing pool is proposed in the Flood Zone. Approximately 690 square feet of the 800 square foot new swimming pool is in the Flood Hazard Zone. Both the existing and proposed pools are within the 100 foot critical area adjacent to the Five Mile River. Almost the entire proposed pool is located within the Flood Zone. He said that trees will need to be trimmed to get the new pool in place.

According to the engineering report prepared by McChord Engineering, approximately 1,300 square feet of new impervious surface is being created. Stormwater from this new impervious surface will be directed into the drainage system. New Cultec units will be added. The drainage system was designed to catch the first inch of rain water and process it for stormwater quality purposes.

A Coastal Area Management Report has been submitted. It notes that the pool is within the flood hazard area and within the 100 foot critical area adjacent to the Five Mile River. The pool coping will be at elevation 11.4 and will therefore need to have special hydrostatic vents included in accordance with the Roberge Engineering report dated 6-1-2016.

Mr. Ginsberg said that the Environmental Protection Commission (EPC) has started to review the application. They decided not to hold a public hearing regarding the proposal. They are writing a report at this time and will be submitting it to the Planning & Zoning Commission. The Commission discussed the fact that swimming pools are sometimes proposed in or near the Flood Zone and/or within the 100 foot critical area adjacent to the rivers and Mean High Water. The Commission tries to keep the structures out of both the flood zone and critical 100 foot Coastal Area Management area.

There were no comments from the public regarding the application.

Mr. Ginsberg said that the CT Department of Energy & Environmental Protection (DEEP) expressed concern about the ramp and float. These have nothing to do with the proposed addition to the house or the construction of the swimming pool.

Commission members discussed the design of the building and noted that it has a very large cupola. They wondered whether it would have any function. Mr. Vicente said that the proposed cupola mimics the existing large cupola on the existing house. He said that the cupola structure will have skylight windows to let light in and will not have a floor on the third floor level. He said that the cupola is less than 15% of the roof area.

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Commission members decided to close the public hearing but to receive the pending report from the EPC. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved.

At about 9:50 P.M., Chairman Cameron read the following agenda item:

Land Filling & Regrading Application #383, Nicholas & Autumn Robert, 7 Whaling Road.

Proposal to construct a new swimming pool with associated retaining wall, stone patio, and underground storage (at garage level), and perform related site development activities. The subject property is located on the east side of Whaling Road, approximately 400 feet north of its intersection with Salem Straits, and is shown on Assessor's Map #62 as Lot #54 in the R-1 Zone.

Jacek Bigosinski, Project Architect, explained that the existing stone wall in the back yard was built about 20 years ago. The current owners wish to build a swimming pool in the backyard but due to the various grades in the back yard, they will need to build a new stone retaining wall to keep all of the work outside the regulated area adjacent to the wetland. The pool will be built in the vicinity of the top of the rock in the back yard. Mr. Bigosinski said that the house addition does not need any regrading permits but it is shown on the plans so the Commission will understand the scope of the entire project. Part of the house addition will create the patio. Mr. Bigosinski said the stormwater runoff from the addition, patio and pool area will be directed into two Cultec units to manage the stormwater runoff. He said that the proposed retaining wall would be uphill of the 50 foot regulated area around the wetland. He said that they will also need to chip away at the rock to have the pool at the same level as the patio. He said that the proposed back retaining wall would be a maximum of 6 foot high and the pool equipment will be placed by the steps near the driveway. Commission members said that the pool equipment needs to be shown on the revised plan and the pool equipment must comply with the setback requirements. In response to questions, Mr. Bigosinski said that there is already a propane tank on the site so there will not be a need for a second propane tank for a pool heater.

There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

At about 10 P.M., Chairman Cameron read the following agenda item:

GENERAL MEETING

Amendment of Special Permit Application #89-F(2)/Site Plan, Darien Public Works, 126 Ledge Road.

Proposal for a new Swap Shop building to replace the existing Swap Shop tent.

Mr. Ginsberg noted that the Architectural Review Board (ARB) had reviewed the project and issued a positive report. Plans and maps of the proposed Swap Shop structure have been submitted for the Commission's review. The Commission did review the plans. The following motion was made: That the Planning & Zoning Commission amend the existing Special Permit to authorize the

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installation of the proposed Swap Shop building in accordance with the submitted application materials. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

At about 10:05P.M., Chairman Cameron read the following agenda item:

Discussion and deliberations and possible decisions regarding the following:

Site Plan Application #291/Special Permit, Land Filling & Regrading Application #378, Darien Housing Authority, 719 Boston Post Road. Proposal to raze the residential structures on the property and construct 55 units of multi-family housing with associated parking and stormwater management and perform related site development activities. *PUBLIC HEARING CLOSED ON 4/26/2016. DECISION DEADLINE: 6/30/2016.*

The following motion was made: That the Planning & Zoning Commission waive the process of reading all the draft resolutions aloud because each member has had an opportunity to review the drafts prior to the meeting. The motion was made by Mr. Sini, seconded by Mr. Voigt and unanimously approved.

Mr. Voigt departed the meeting in order to avoid any potential conflict of interest.

Commission members discussed the draft resolution and several minor clarifications and corrections were agreed upon. One item discussed was the fact that the residents must be either 62 years of ages or disabled. Commission members decided they will let the Housing Authority enforce that specific requirement. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved by a vote of 4-0, as Mr. Voigt did not participate in the discussion and/or vote. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 28, 2016**

Application: Site Plan Application #291/Special Permit
Land Filling & Regrading Application #378

Street Address: 719 Boston Post Road
Assessors Map #16 Lot #59

Name and Address
of Applicant: Darien Housing Authority
24 Allen O'Neill Drive
Darien, CT 06820

Name and Address of:
Applicant's Representative: D. Bruce Hill, Esq.
Law Office of Bruce Hill
30 Old King's Highway South
Darien, CT 06820

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Activity Being Applied For: Proposal to raze the residential structures on the property and construct 55 units of multi-family affordable, age-restricted housing with associated parking and stormwater management and perform related site development activities.

Subject properties: The subject property is located on the north side of Boston Post Road at the northeast corner formed by its intersection with Academy Street.

Zone: DB-1/DB-R Zone

Dates of Public Hearing: February 23, 2016 continued to March 1, 2016, March 22, 2016,
March 29, 2016, April 19, 2016 and April 26, 2016

Deliberations held: June 7, 2016 and June 21, 2016

Time and Place: 8:00 P.M. Room 206 and Auditorium Town Hall

Publication of Hearing Notices

Dates: February 12 & 19, 2016

Newspaper: Darien News

Date of Action: June 28, 2016

Action: GRANTED WITH STIPULATIONS AND
MODIFICATIONS

Scheduled Date of Publication of Action:
July 8, 2016

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 420, 850, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

The subject application is related to a separate application for zoning map and zoning regulation amendments. That application was decided by the Commission on May 24, 2016. This resolution focuses solely on the Site Plan Application #291/Special Permit and Land Filling & Regrading Application #378.

BACKGROUND AND HISTORY

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1. The subject application is to raze the residential structures on the property and construct 55 units of multi-family affordable, age-restricted housing with associated parking and stormwater management and perform related site development activities. The development now contains 30 apartment units. The proposed 55 units will include 53 one-bedroom units and two two-bedroom units. It should be noted that the former Darien Community Fund building, which is a town-owned structure, is also located on this property, but this application does not propose any changes to that building or use thereof.
2. As noted, the Commission has recently approved a related application to apply the Municipal Use (MU) overlay zone for this property. The effective date of the zone change was June 19, 2016. The MU Zone allows the Commission to approve a building as tall as 45 feet in height, and a maximum of 25% building coverage.
3. The Architectural Review Board (ARB) reviewed the plans at their February 23, 2016 meeting, including the building façade, roof, and signage. Subsequently, they reviewed larger cupolas and smaller chimneys, which were subsequently recommended for approval. Their recommendations to the Commission are hereby incorporated.
4. Revised plans dated April 26, 2016 were presented at the final public hearing on April 26. Those plans responded to comments made by neighbors and the Planning and Zoning Commission during the public hearing process. These include both site changes and architectural changes. The site changes showed added plantings, a narrowed Academy Street curb cut, and additional fence details. The architectural changes reduced the height of the north part of the building, and eliminated five balconies on the north end of the building.

COMMENTS FROM HUMAN SERVICES

5. Olive Hauser, Director of the Darien Human Services Department sent a memo dated August 25, 2015, with issues for consideration. Many of these concerns have been incorporated into the design of the units and the project.

LANDSCAPING/SCREENING/BUFFER

6. During the public hearing, there was discussion regarding the proposed buffer area to the north and east sides of the property. The submitted survey by Edward Frattaroli dated May 26, 2015 entitled "Plot Plan prepared for Old Town Hall Homes", shows that some of the parking spaces to the north and east sides of the property do not now comply fully with the 25 foot buffer requirement. There are now no apartment buildings within the buffer area, and the new plan shows that the new building will also not encroach into the 25 foot buffer area.
7. The proposed plan is to preserve and enhance much of the existing screening and landscaping located between the proposed parking area and the single family residential neighbors to the north, northeast and northwest. Much of the existing landscaping on the west side (along Academy Street) and south side (along Boston Post Road) will be removed to facilitate construction of the new building and parking area. Along the easterly boundary, several large trees will be preserved and will have special tree protection fencing placed about 10 feet away from the trunk of the trees. New landscaping will be added around the building. It will consist of decorative trees, shrubs and ground cover. Evergreen trees will be added in the northeastern and eastern boundaries of the site to supplement existing screening within the areas adjacent to residential neighbors. New

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landscaping will also be planted around the former Darien Community Fund building. Established trees will be planted around the parking lot and along the streets.

8. One of the changes within the buffer area is a proposal for a Dumpster and associated enclosure and retaining wall in the northwest corner of the property. The Grading Plan shows that while this Dumpster is within the buffer area, it is at least twelve feet below the street level of Academy Street, and thus, would not be visible from surrounding properties. Other than this Dumpster area, and the existing encroachments, further encroachment into the 25 foot buffer is minimal.
9. The Commission finds that a reduction of the buffer, to that shown on the submitted plans, will not have an unreasonable detrimental impact upon the adjacent property or properties, and is in compliance with Section 425d of the Regulations.

STORMWATER MANAGEMENT

10. A detailed stormwater management report and site plans have been prepared by Civil 1, Civil Engineers. They have been revised several times to respond to questions, issues and concerns raised by the Commission, its staff, Joseph Canas, PE of Tighe & Bond who was hired by the Town to conduct a peer review of the drainage engineering, and the neighbors. The most recent revision date of the plans is March 18, 2016 and the addendum to the report is dated March 18, 2016. The stormwater management plan calls for the collection of the water from the roof area and parking area and then piping the water to the east side of the site and into a series of underground galleries for retention, storage and percolation into the ground and slow release into the nearby drainage system in the street.

PARKING/TRAFFIC SAFETY

11. A total of 60 on-site parking spaces are proposed for the 55 units. The parking spaces will be located on the north and east sides of the building. The driveway access to/from Academy Street and the driveway to/from Boston Post Road will remain. The provided parking will also be used for the Town-owned building, which is on the same property. The installation of a bus shelter along the Boston Post Road has been suggested, and is shown on the applicant's submitted Site Plan, Sheet L-2.0, and last revised April 25, 2016.

RESIDENTIAL NEIGHBOR INPUT

12. At the public hearings, there were numerous comments and concerns regarding the subject application. Many of these had to do with building height and mass, lighting, noise of mechanical equipment and site operations, construction process, environmental issues and drainage, landscaping/screening, and traffic and parking. The revised building plans dated April 25, 2016 reduce the size of the north end of the third floor, the portion of the building which is closest to the residential neighbors. All lighting will be installed with baffles, shields or cut offs so that the source of light will not be visible to the neighbors and the spillage of light glare will be limited to the site. LED technology will be installed wherever appropriate. The spot lights on the existing buildings will be eliminated and new lighting for the site will be directed toward the building, not toward the neighbors. The Commission finds that the proposed lighting complies with Section 425a of the Regulations.

FINDINGS

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13. Pursuant to Section 424b of the Regulations, the Commission finds that the unique use and design of the building combined with the location of the site and the development plan will result in a project that will be appropriate for the community and the site specific circumstances and will not be detrimental to the reasonable use and values of the adjacent properties.
14. The Commission finds that the application has been reviewed by the Commission and, as amended herein, is in general compliance with the intent and purposes of Section 1000.
15. The proposal, as amended herein, conforms to the standards for approval as specified in Section 850 and Section 1005 (a) through (g) of the Darien Zoning Regulations.
16. The design, location, and specific details of the proposed use and site development, *as modified and granted herein*, will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole. In accordance with Section 424, note b., the Commission finds that the unique use and design of the building combined with the location of the site and the development plan will result in a project that will be appropriate for the community and the site specific circumstances and will not be detrimental to the reasonable use and values of the adjacent properties.
17. The elements of the Site Plan, submitted as part of the application, **AS GRANTED WITH STIPULATIONS AND MODIFICATIONS HEREIN**, accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Site Plan Application #291/Special Permit and Land Filling & Regrading Application #378 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction, stormwater management and site development activity shall be in accordance with the following plans as submitted to the Commission, as required to be revised herein:
 - Old Town Hall Homes prepared by Crosskey Architects, LLC
 - Demolition Plan L-1.0 revised Apr 25, 2016
 - Phasing and Staging Plan L-1.1 revised Apr 25, 2016
 - Layout Plan L-2.0 revised Apr 25, 2016
 - Site Plan L-2.0 revised Apr 25, 2016
 - Location Map and Zoning L-2.1 revised Apr 25, 2016
 - Grading Plan L-3.0 revised Apr 25, 2016
 - Planting Plan L-4.0 revised Apr 25, 2016
 - Site Details L-5.0 revised Apr 25, 2016
 - Site Details L-5.1 revised Apr 25, 2016
 - Site Details L-5.2 revised Apr 25, 2016
 - Erosion and Soil Sedimentation Control Plan ES-1 revised Apr 25, 2016
 - Old Town Hall Homes prepared by Acorn Consulting Engineers, Inc.
 - Site Lighting Photometric Plan dated November 23, 2015

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- Old Town Hall Homes prepared by Crosskey Architects, LLC Revised Cupola dated April 19, 2016
- Old Town Hall Homes prepared by Crosskey Architects, LLC
 - First Floor Plan A-1 revised April 26, 2016
 - Second Floor Plan A-2 revised April 26, 2016
 - Third Floor Plan A-3 revised April 26, 2016
 - Building Sections A-3.1 revised April 26, 2016
 - Building Height Comparison & Wall Section A-3.2 revised April 26, 2016
 - Building Elevations, two sheets revised April 26, 2016
 - And two 11" x 17" perspective drawings of the building revised April 26, 2016 to indicate the modifications of the north end of the third floor
- Old Town Hall Homes prepared by Civil 1 and revised February 29, 2016
 - Storm and Sanitary Sewer Demo Plan Drawing C-1.0
 - Utility Plan Drawing C-2.0 and revised March 18, 2016
 - Drainage Area Map Drawing C-2.1
 - Catchment Area Map Drawing C-2.2
 - Storm Drainage Profiles Drawing C-3.0 and revised March 18, 2016
 - Storm Sewer and Erosion Control Details Plan Drawing C-4.0 and revised Mar 18, 2016
 - Storm Sewer and Water Supply Details Plan Drawing C-4.1 and revised Mar 18, 2016

All drawings and plans must be revised, pursuant to the Conditions herein, to be coordinated and consistent with each other and this approval.

PLAN MODIFICATIONS REQUIRED

- B. The Commission requires that the following revisions, changes, and modifications be made to the submitted plans in Condition A.
1. The bus shelter (for purposes of consistency, it shall be the same as that in front of Whole Foods) shall be as shown on all of the submitted plans and as presented at the public hearing. It shall be installed in the location shown on the plans.
 2. Applicable Fire Lanes as required by the Fire Marshal.
 3. All comments from the State of Connecticut DOT in their February 1, 2016 letter, and others that may be required during any final review process.
 4. Modifications to the plans as recommended by the Human Services Department. These include:
 - a) Requirement for electric stoves, rather than gas stoves;
 - b) All units to be sprinklered with hard wired smoke and carbon monoxide detectors
 - c) Consider constructing some or all of the units with no bathtubs, but rather large handicap-accessible showers (this is not a requirement);
 - d) Generators to power, at a minimum, common areas such as the elevator, hallways, common rooms, lobby area in the event of a power outage;
 - e) All doors to have lever hardware (already incorporated into the plans);
 - f) Pull cords and lights for a call button system in the apartments (already incorporated into the plans);
 - g) Indoor mailboxes and a secure place to leave packages;
 - h) Separate recycling and garbage;

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- i) Central air conditioning for each unit (already incorporated into the plans);
- j) If possible, the Memorial tree (a small Alberta Spruce and a small stone dedicated to Ann Holmes) is to be moved and replanted on the site (this is not a requirement).

An e-mail response to the Olive Hauser comments was sent by Todd McClutchy on March 22, 2016 addressing the August 25, 2015 Hauser e-mail comments.

- C. A non-disturbance area around the groups of deciduous and evergreen trees that currently provide the buffer to the north, northeast and northwest residential neighbors shall be established. This area shall be no more than three feet beyond the proposed edge of the new parking area and dumpster enclosure. The barrier to designate the non-disturbance area shall include a temporary 4 foot tall, green metal fence. The non-disturbance area shall not be used for any parking, construction storage or activities. Only for the brief time period when the new light poles and electrical service to those poles is being installed shall the temporary fence be removed during construction.

BALCONIES

- D. During the public hearing, the neighbors voiced their concerns with the proposed second and third floor balconies. The two-page document entitled, "DHA Response to March 24, 2016 Email Inquiry" submitted at the 4-19-2016 public hearing, outlines a sample list of rules and regulations regarding the proposed balconies. Those Rules and Regulations are hereby incorporated as part of this approval.

DUMPSTER

- E. The proposed Dumpster shall be screened as shown on the submitted plans. It shall be emptied as often as necessary to avoid any protrusion of garbage above the rim/lid or blowing across the property or adjacent properties. The dumpster enclosure area shall be neatly maintained, and the doors shall remain shut at all times when someone is not loading or unloading garbage. The Housing Authority/Management Company is responsible for maintaining this shared trash area, including ensuring that it is emptied frequently enough to minimize odors; and that all its latches and mechanical parts operate smoothly and remain fully aligned. It is imperative that the doors remain shut when not in use, because an open door will obstruct access to parking spaces on the subject property. If in the future, it is determined that the existing size of the dumpster area and/or pickup frequency is not satisfactory, the property owner shall adjust the pickup frequency. If the property owner needs to enlarge the dumpster area, that requires an amendment of this approval from the Planning and Zoning Commission. In order to minimize impacts to neighbors, no garbage pickup shall occur prior to 6:00 a.m.

PRIOR TO THE ISSUANCE OF ZONING PERMITS

- F. The applicant has proposed that all of the units be served by a private driveway and not a street. Since there is no new public or private road construction and no extension of public utility facilities, the Commission waives the requirement for submission of a Performance Bond.
- G. Prior to preparing any required final mylar, unit numbers and street addresses shall be verified with the Assessor. Those should be included on the final mylar for filing.
- H. A construction phasing plan for Old Town Hall Homes shall be submitted to the Planning and Zoning Department for review and action by the Planning and Zoning Director prior to the

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issuance of any Zoning or Building Permits for the new foundation. This will ensure the safety of residents who move into a portion of the project during the construction process (before all of the units have been completed). Any Temporary Certificate of Occupancy requested shall be subject to review and approval by the Fire Marshal, Building Official and Zoning Enforcement Officer prior to issuance.

- I. By August 28, 2016 (within the next 60 days) and prior to the issuance of a Zoning or Building Permit for the proposed new foundation and prior to the start of any filling or regrading work, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, such plan shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of Old Town Hall Homes to maintain the on-site drainage facilities, and will alert future property owners of the on-site drainage facilities and the need to maintain said facilities to minimize impacts upon adjacent properties. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this approval.
- J. Prior to demolition and site disturbance, the new Emerald American Arborvitae proposed in the northeast corner of the site shall be installed to provide more screening for the residential neighbors during the construction process. The non-disturbance area shall be established and the tree protection shall be properly established. These shall be properly maintained throughout the development process. Any new fencing shown on the plans, and any replacement of existing damaged or broken fencing, shall be installed prior to the issuance of the Zoning and Building Permit for the foundation of the new building. This includes, but is not limited to new chain link fence atop the stone wall along Academy Street to replace the existing chain link fence.

DURING CONSTRUCTION

- K. The applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- L. Vehicles and equipment coming into or leaving the site shall use the Boston Post Road entrance/exit. During the construction of the Academy Street entrance, construction vehicles may use the Academy Street exit to turn left and head toward the Boston Post Road. Throughout the construction process, no vehicles or equipment exiting the site shall turn right on Academy Street. A temporary sign shall be placed on Academy Street at the driveway, noting such.
- M. Once the project is completed, there shall be no access from Academy Street southbound turning into the project. Vehicles shall use the Boston Post Road driveway (ingress and egress), and may also go northbound on Academy Street and turn right to enter the site.

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- N. In order to minimize impacts to adjacent residential properties, the Commission hereby requires that no work start earlier than 7:00 A.M.
- O. The sixty provided on-site spaces shall continue to be shared between Old Town Hall Homes and the Town-owned building on-site (formerly used by the Community Fund). The Commission finds that due to the nature of the proposal (affordable units for the elderly and mostly one-bedroom units), that the proposed parking is adequate.
- P. The plans show the existing sidewalks along the Boston Post Road/Academy Street frontage to remain, with some changes as required by the State of Connecticut DOT, and also as shown on the submitted plans. Any sidewalk damaged during construction shall be replaced in kind.

DRAINAGE/STORMWATER MANAGEMENT

- Q. The applicant shall install the drainage system as shown on the submitted plans. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have negative impacts upon the adjacent properties. If such problems do become evident in the future, the Housing Authority and/or their designated management company shall be responsible for remedying the situation at the Housing Authority or management company's expense and as quickly as possible.
- R. It is incumbent upon the property owner(s) to maintain the installed drainage system, including, but not limited to, maintenance of the underground structures, (such as inspection and clean out once every 18 months or more frequently as needed). A long-term maintenance plan for drainage shall be submitted for the Planning and Zoning Commission file, and implemented by the Housing Authority and/or management company.

DEED RESTRICTIONS FOR AFFORDABLE HOUSING

- S. All units at Old Town Hall Homes shall be age-restricted, and deed-restricted to those earning less than or equal to 80% of State Median Income (SMI), and all units shall be rental units. Associated deed restrictions, Compliance Plan and Affordability Plan shall be filed in the Darien Land Records prior to the issuance of a Zoning and Building Permit for the foundation for the new building. The deed restrictions of the units shall include restrictions by age, as to maintain the development's senior housing status (age 62 or above—or disabled).
- T. Restrictions on the 55 multi-family age-restricted affordable housing units shall be filed in the Darien Land Records prior to the issuance of a Zoning or Building Permit for foundation of the new building. Those restrictions shall include the entity that annually certifies the income and age verification of the tenants, and include a Compliance Plan and Affordability Plan.

GENERAL CONDITIONS

- U. All utilities serving this property shall be underground. These include, but are not limited to, electrical, telephone, gas, cable TV, and all other wiring.
- V. All lighting shall be installed with baffles, shields or cut offs so that the source of light will not be visible to the neighbors and the spillage of light glare will be limited to the site. Exterior LED lighting technology shall be installed where appropriate, except for small exterior decorative lighting. The existing spot lights on the building will be eliminated and new lighting

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for the site will be directed toward the building, not toward the neighbors. If any light spillage or glare or reflected light problems arise that negatively impact the nearby residential neighbors, the Housing Authority shall be responsible for reasonably addressing and correcting such problems at the expense of the Housing Authority.

- W. A final “as-built” survey is hereby required to certify that the site improvements (including drainage and landscaping) are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the required drainage work has been properly completed in accordance with the approved plans. A certification shall be submitted regarding the final building height of the buildings as constructed, as well as building coverage.
- X. All site work around the entire building, including but not limited to curbing, paved and striped parking spaces, bus shelter, drainage systems, safety signage, landscaping and other site improvements as shown on the approved plans shall be properly installed and completed prior to the use of and/or the issuance of a Temporary or Final Certificate of Occupancy for any unit within the building.
- Y. All landscaping shall be installed per the submitted Landscape Plan referenced in Condition A, above. Prior to implementation, any changes or substitutions must be reviewed and acted upon by the Planning and Zoning Commission. All required landscaping, temporary irrigation for newly planted trees and shrubs, and an automatic irrigation system for the landscaping surrounding the building, shall be installed prior to the issuance of a Temporary or Final Certificate of Occupancy for any unit within the project.
- Z. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This would include, but not be limited to Demolition Permits and Sewer Disconnect Permits for the existing buildings. Permits from the Fire Marshal will be needed to remove any existing underground oil tanks, to install any new oil tanks, and for removal of any above-ground or underground propane tanks. Approval of the State of Connecticut DOT may be required. Zoning and Building Permits and Sewer Connection Permits will be needed for the new Old Town Hall Homes building. Separate Zoning and Building Permits will be required for the foundation of the new building, as well as any work above the foundation.
- AA. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- BB. This permit shall be subject to the provisions of Sections 858, 1009 and 1025 of the Darien Zoning Regulations, including but not limited to implementation (i.e., the completion of construction) of the approved plan within two years of this action (June 28, 2018). This approval may be extended as per Sections 858, 1009 and 1025.

All provisions and details of the plans, as required to be revised and modified herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall

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be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void. All completed requirements and materials including the drainage maintenance plan and Notice of Drainage Maintenance Plan; and the filing of the deed restrictions (by age and income), within the Compliance Plan/Affordability Plan for Old Town Hall Homes shall be completed and submitted to the Planning and Zoning Department prior to the issuance of Zoning and Building Permits for the foundation of the new building or this approval shall become null and void.

At about 10:20 P.M., Mr. Voigt returned to the meeting and Chairman Cameron read the following agenda item:

Coastal Site Plan Review #246-A, Flood Damage Prevention Application #91-B, Anne Dempsey Sullivan, 124 Pear Tree Point Road. Proposal to demolish most of an existing residence, construct an addition, and raise the floor elevation to be compliant with the current FEMA flood zone, and perform related site development activities within regulated areas.

Commission members reviewed the draft resolution. Minor clarifications and corrections were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Sini and seconded by Mr. Voigt. Those voting in favor were Mr. Sini, Mr. Voigt, Ms. Cameron and Mr. Cunningham. Mr. Olvany abstained. The motion was passed by a vote of 4-0-1. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 28, 2016**

Application Number: Coastal Site Plan Review #246-A
Flood Damage Prevention Application #91-B

Street Address: 124 Pear Tree Point Road
Assessor's Map #60 Lots #35 & #36

Name and Address of
Property Owner: Anne Dempsey Sullivan
124 Pear Tree Point Road
Darien, CT 06820

Name and Address of
Applicant: ERI Building & Design
199 West Avenue
Darien, CT 06820

Name and Address of
Applicant's Representative: Jeffrey W. McDougal
William Seymour & Associates
170 Noroton Avenue
Darien, CT 06820

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Activity Being Applied For: Proposal to demolish most of an existing residence, construct an addition, and raise the floor elevation to be compliant with the current FEMA flood zone, and perform related site development activities within regulated areas.

Property Location: The subject property is located on the east side of Pear Tree Point Road, approximately 250 feet south of its intersection with Crane Road.

Zone: R-1

Date of Public Hearing: June 7, 2016
Deliberations Held on: June 21, 2016

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: May 27 & June 3, 2016

Newspaper: Darien News

Date of Action: June 28, 2016

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
July 8, 2016

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to demolish most of an existing residence, construct an addition, and raise the floor elevation to be compliant with the current FEMA flood zone, and perform related site development activities within regulated areas. The subject residence is served by public water and sewer.
2. At the public hearing, the applicant's representative noted that in the future, an in-ground pool will be proposed for this property, but that is not part of the subject application. A subsequent application to the Commission may be required for this work.

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3. This application was referred to the State of Connecticut DEEP. They responded in an e-mail dated May 20, 2016 that they have reviewed the proposal, and find no inconsistencies relative to the Connecticut Coastal Management Act.
4. The proposed HVAC units are proposed to be on a platform between the garage and the house, and more than fifty feet from neighboring properties. The existing generator is too close to the rear yard setback, and will also be placed on a platform to comply with the flood regulations, and therefore will need to be relocated to a complying location relative to setbacks.
5. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.
6. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
7. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
8. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
9. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #246-A and Flood Damage Prevention Application #91-B are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Site Plan prepared for Sullivan Residence #124 Pear Tree Point Road, scale 1"=20', by LBM Engineering, LLC, dated April 18, 2016.
 - Zoning Location Survey depicting proposed conditions 124 Pear Tree Point Road prepared for Anne Dempsey Sullivan, by William W. Seymour & Associates, scale 1"=20', dated August 17, 2015 and last revised April 7, 2016.
 - Residence of: Sullivan 124 Pear Tree Point Road, by ERI Building & Design, LLC, dated 3-28-16, Drawings 1-7.
 - Proposed AC Platform, Sullivan Job, 11" x 17", received 5-27-16. This notes that the proposed platform will be at elevation 14.0.
- B. Because of the nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the submitted plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse

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impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.

- D. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification letter shall be submitted from a licensed architect and/or engineer that verifies that the final design of the foundation and house complies with the applicable flood damage prevention requirements.
- E. Due to this property's location across the street from the Darien River, the Commission waives the requirement for detention as part of the stormwater management. The submitted Site Plan shows stormwater infiltration units that address water quality.
- F. A Drainage Maintenance Plan was prepared by the applicant's engineer and submitted for the record in this matter. It requires the property owner and all subsequent owners of the subject property to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the issuance of a Zoning and Building Permit for the proposed work.
- G. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site of the regrading will not have any negative impacts upon the adjacent property(ies) and/or the street. If such problems do become evident in the future, the owner of the property shall be responsible for remedying the situation at their expense and as quickly as possible.
- H. Once the construction work is complete, and prior to the use of, or issuance of a Certificate of Occupancy for the house, the applicant shall submit verification from the project designer that all aspects of the house construction and site work, including but not limited to stormwater management and lifting and proper location of the generator and other mechanical equipment, have been completed in compliance with the approved plans and the flood damage prevention regulations. A final "as-built" survey is hereby required to verify that the final work is in compliance with the approved plans and the Flood Damage Prevention Regulations.
- I. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes, but is not limited to a Demolition Permit from the Darien Building Department and a Sewer Disconnect Permit from Darien Sewer Services. Zoning and Building Permits will be needed for the new construction work.
- J. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.

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- K. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (June 28, 2017). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Chairman Cameron read the following agenda item:

Business Site Plan #138-B/Special Permit, BLCR Holdings, LLC, William Raveis Real Estate, 22 Old King's Highway South. Proposal to construct additions and alterations to the existing office building and perform related site development activities; and to apply for a Special Permit for a first floor real estate office use in the CBD Zone.

Commission members discussed the draft resolution. Several modifications and clarifications were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt and seconded by Mr. Sini. Voting in favor were Mr. Voigt, Mr. Sini, Ms. Cameron and Mr. Cunningham. Mr. Olvany abstained. The motion passed by a vote of 4-0-1. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 28, 2016**

Application Number: Business Site Plan #138-B/Special Permit
William Raveis Real Estate

Street Address: 22 Old King's Highway South
Assessor's Map #72 Lot #36

Name and Address of Applicant & Applicant's Representative: Wilder G. Gleason, Esq.
Gleason & Associates, LLC
455 Boston Post Road, Suite 201
Darien, CT 06820

Name and Address of Property Owner: BLCR Holdings LLC
7 Trap Falls Road
Shelton, CT 06484

Activity Being Applied For: Proposing to construct additions and alterations to the existing commercial building (including a handicap ramp) and to perform related site development activities; and application for a Special Permit for a first floor real estate office use within the CBD Zone.

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Property Location: The subject property is located on the west side of Old King's Highway South, approximately 50 feet south of its intersection with Center Street.

Zone: CBD (commercial) Zone

Date of Public Hearing: June 7, 2016

Deliberations Held on: June 21, 2016

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: May 27 & June 3, 2016

Newspaper: Darien News

Date of Action: June 28, 2016

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
July 8, 2016

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 650, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to construct additions and alterations to the existing commercial building (including a handicap ramp) and to perform related site development activities; and application for a Special Permit for a first floor real estate office use within the CBD Zone. Section 654d of the Darien Zoning Regulations allows a first floor real estate office if the Commission makes a finding that "retail/commercial sales and service use of such space is impractical, undesirable, and/or inconsistent with the standards under Section 1005h." This is almost the identical application to that in Business Site Plan #138-A/Special Permit approved by the Commission in September 2010.

OTHER APPROVALS

2. The Zoning Board of Appeals (ZBA) granted variance requests (Calendar #20-2016) on May 18, 2016. Those variances were from Sections 656, 904, 923.1c and 923.6 of the Zoning

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Regulations, to allow the construction of additions, with parking (10 in lieu of 13 required parking spaces) and signage. That ZBA approval is hereby incorporated by reference.

3. The subject plans were not referred to the Architectural Review Board (ARB), since they reviewed this same application at its July 20, 2010 meeting. That ARB action, to recommend approval, is hereby incorporated by reference.

PUBLIC WORKS COMMENTS

4. One development option presented to the Commission was whether the area adjacent to the Center Street municipal parking lot will be a sidewalk or landscaping. Darren Oustafine, Assistant Director of Public Works in his June 1, 2016 e-mail said, "A sidewalk is not preferred in planted areas adjacent to proposed additions and on town property." In that e-mail, he also stated, "No new lighting shall be installed on town property."

PEDESTRIAN ACCESS

5. As noted by the applicant, this building project will create a "pass-through" or access walkway from the Center Street South municipal parking lot through this site to Old King's Highway South. Such an access will assist in the Commission's long-term goal of making downtown more walkable, as well as having downtown activity reoriented to be more "north-south" than "east-west". The applicant has proposed a formal pedestrian easement in favor of the Town of Darien to accomplish this goal. At the public hearing, the applicant offered that the easement would run with this site plan, but could be relocatable/extinguishable in the future, under a different site plan, or future redevelopment.
6. The Commission notes that the submitted Development Plan approved herein shows no fences, gates or other impediments to pedestrian access alongside the building through to Old King's Highway South. The submitted Development Plan also does not show any garbage cans or outdoor storage in this access area--either of which would inappropriately impede or inhibit pedestrian access and passage.

SPECIAL PERMIT AND SITE PLAN FINDINGS

7. As required by Section 1005a of the Darien Zoning Regulations, the Commission finds that the location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that, as revised, the application is in harmony with the orderly development of the district in which it is located.
8. Pursuant to Section 1005b, the Commission finds that the application, as required to be modified herein, and the location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
9. The Commission finds that the elements of the Site Plan submitted as part of the Special Permit application shall accomplish the objectives for Site Plan approval as specified in Subsection 1024.

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10. Pursuant to Section 1005d, the Commission finds that the design, location, and specific details of the proposed use and site development, as required to be modified herein, will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
11. Per Section 1005g, the Commission finds that consideration has been given to the protection, preservation and/or enhancement of the natural environment. Tree protection will be used to preserve the significant on-site trees.
12. The location and size of the use and the nature and intensity of the proposed operation, as required to be modified herein, conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
13. The Commission notes that the subject property has been used as a real estate office for several years. The Commission has considered the presence of off-street parking in direct proximity of the site, the character of surrounding uses, convenience of pedestrian access, and location within the CBD. The applicant noted that the nature of the addition is that it will allow for better and easier conversion to first floor retail space in the future, since they will be re-orienting the building to face the Center Street parking lot, and providing for improved pedestrian access. While the first floor real estate office will continue, these changes will allow for conversion in the future. The Commission hereby finds that at this time, the retail/commercial sales and service use of such space is impractical, undesirable, and/or inconsistent with the standards under Section 1005 h.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #138-B/Special Permit is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. As required to be modified herein, the Commission approves the following plans received in the Planning and Zoning Department, entitled:
 - William Raveis Real Estate 22 Old Kings Highway South For Special Permit by Meyer-Ridley Architects LLC, dated April 20, 2016, Drawing Number: L101 (last revised 06/07/16), A101-A102, A301-A302 (last revised 06/07/16).
 - Development Plan Commercial Development William Raveis Real Estate by Rocco V. D'Andrea Inc., dated 5-16-16.The Development Plan shall be revised to remove the "Proposed Lights" and other changes shall be made to it to coordinate with the submitted (and approved) Landscape Plan and other plans approved above.
- B. As part of its prior approval in 2010, the Commission required that real estate listings are only to be on the windows facing 24 Old King's Highway South (along the proposed pedestrian access walkway to Old King's Highway South). No listings shall be placed in windows on the front of the building facing Old King's Highway South, facing the neighboring property at 20 Old King's Highway South, or the "rear" of the building facing the municipal parking lot. That 2010 condition is also required herein.

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- C. Due to the nature of the proposed use, the Commission hereby waives the loading space under Section 909 of the Zoning Regulations.
- D. The plans show that the proposed building addition and associated access ramps are mostly proposed over an already impervious area. The Commission finds, under Section 888a(3), that due to the scope, nature, and/or amount of work proposed with the application, the stormwater management requirement is waived.
- E. As noted by the applicant, this building project will create a “pass-through” or access walkway from the Center Street South municipal parking lot through to Old King’s Highway South. Such an access will assist in the Commission’s long-term goal of making downtown more walkable, as well as having downtown activity reoriented to be more “north-south” than “east-west”. The applicant has offered to establish a formal pedestrian access easement. Final wording of the easement and an associated mylar shall be filed in the Darien Land Records prior to the issuance of any Zoning or Building Permit for the proposed work. The applicant has proposed, and the Commission agrees, that the pedestrian easement is not permanent, but shall run with this site plan. Redevelopment of the property as may be approved in the future by the Commission may relocate and/or extinguish the easement. The property owner shall also have the right to relocate the easement in the future, subject to Commission review and action. The final easement wording shall be reviewed by the Planning and Zoning Director and Town Counsel.
- F. Because of the proposed location of the real estate office within downtown Darien and the nature of the proposed real estate use, the Commission does not limit the proposed hours of operation.
- G. No Dumpster or trash area is shown on the submitted plans and none is approved herein. Any future request for a Dumpster or outdoor trash area will require review and action by the Planning and Zoning Commission as a modification of this Site Plan/Special Permit.
- H. No request for exterior seating, storage or activity within the pedestrian easement area was included as part of this application. Any such request will require subsequent review and action by the Planning & Zoning Commission.
- I. Prior to the issuance of a Certificate of Occupancy for the proposed additions to the building, all site improvements and changes shall be completed. These include, but are not limited to, the new sidewalk, lawn/landscaping, and ADA ramps.
- J. The granting of this Site Plan/Special Permit approval does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agencies. This includes, but is not limited to, final approval from the Darien Department of Public Works for a Street Opening Permit (for the associated work on Town property), and the Darien Fire Marshal. The pedestrian easement and associated mylar shall be filed in the Darien Land Records prior to the issuance of Zoning and Building Permits. The revised Development Plan shall be submitted with the Zoning and Building Permit applications.

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- K. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- L. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (June 28, 2017). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plans, as required to be modified herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations, the signing of the final approved plans by the Chairman, and filing of the Special Permit form in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

At about 10:25 P.M., Chairman Cameron read the following agenda item:

Deliberations ONLY regarding the following (time permitting):

Amendments to the Darien Zoning Regulations put forth by Noroton Heights Shopping Center, Inc., and FR Darien, LLC (COZR #6-2016). Proposal to amend Section 680 *et. seq.* and the inclusion of a new subsection 687 (Public Plazas). These proposed amendments address redevelopment in the Noroton Heights Redevelopment (NHR) Zone, and would allow for an increase in: number of stories of building height; building height in feet; Developed Site Area; and allow for larger dwelling units. Amendments are also proposed to Sections 905 (Joint Parking), by adding a new subsection 905.2 (Joint Parking in Mixed Use Developments). This will allow residential parking to be separated from non-residential parking. Amendments to subsection 907 (Parking Structures), would allow for subsurface parking without such being counted as stories, and will allow such subsurface parking structures to be located within minimum yard areas. The amendments to Sections 905 and 907 would apply to all zoning districts in Darien. *PUBLIC HEARING CLOSED ON MAY 24, 2016. DECISION DEADLINE: JULY 29, 2016.*

Mr. Olvany noted that his inclination was to not grant the zoning regulation amendment relative to the proposed height or unit size. Mr. Sini said that the 1,200 square foot size limit now exists, which is restrictive. He said that New Canaan now has a limit of 1,800 square feet in some zones, and their regulation allows the Commission to grant additional unit size via a Special Permit, but they limit it to two bedroom units. Mr. Olvany believed that a maximum unit size of 1,200 square feet, which can be increased by the Commission via Special Permit was acceptable to him. Mr. Sini believed a two-bedroom maximum would be appropriate. Mrs. Cameron noted that only the commercial uses within the mixed-use development would be sharing the parking, since the residential units would have separate, reserved parking underground. She said that now, in this zone, the Commission can waive up to a maximum of 50% of the required parking.

It was noted that the proposal relative to underground parking had previously been granted by the Commission as part of a proposal recently put forth by Attorney Amy Zabetakis on behalf of Maplewood. Commission members agreed that the proposed changes to the Background and Purposes section and the Uses section put forth by the applicant were appropriate. They then

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discussed Developed Site Area, and whether credit should be granted for open space at atop a structure.

Relative to Building Height, Mr. Sini and Mr. Cunningham said that the zone now allows up to 3 stories, 42 feet. Mr. Sini confirmed that Noroton Heights should be secondary in terms of building height relative to downtown. The buildings within this commercial zone should not be as great in height as the buildings allowed in downtown (the CBD Zone). Mr. Cunningham noted that there should be no change to Section 685 #13, and the Commission agreed that the new provisions for public plazas was acceptable. No motion was made and no action was taken.

At about 10:40 P.M., Chairman Cameron read the following agenda item:

Flood Damage Prevention Application #352, Land Filling & Regrading Application #377, Everett Schenk, 19 Salisbury Road. Proposal to fill and regrade in conjunction with the construction of a replacement residence, with associated stormwater management and septic system, and to perform related site development activities within a regulated area. *PUBLIC HEARING CLOSED ON JUNE 7, 2016. DECISION DEADLINE: AUGUST 11, 2016.*

Mr. Cunningham and Mr. Olvany noted that they will have to watch the DVD of the public hearing. Ms. Cameron said that any draft resolution will need to address the various issues presented at the public hearing, including swale construction; spot elevations; tree protection; air spading; construction parking; and the septic system. She said that in her opinion, the proposed septic system should not be moved from its proposed location, which has been approved by the Darien Health Department, because it is in an area which has better soils. Mr. Sini said that overall, in his opinion, the applicant is improving the situation. Ms. Cameron noted that in a heavy rain, lots of water is in this vicinity. No motion was made and no action was taken.

The Commission then briefly discussed scheduling issues.

There being no further business, the following motion was made: That the Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Mr. Sini and unanimously approved. The meeting was adjourned at 10:50 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

David J. Keating
Assistant Planning & Zoning Director